



Ninety-Seventh Legislature - First Session - 2001
Introducer's Statement of Intent
LB 297

Chairperson: Senator Kermit A. Brashear
Committee: Judiciary
Date of Hearing: January 24, 2001

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 297 restores the statutory authority to the Legislature to manage and control the Department of Correctional Services as originally provided in Article IV, Section 19 of the Constitution of the State of Nebraska. The bill sets up a Legislative Advisory Committee for Corrections to manage, control and govern the administrative activities of the Department of Correctional Services.

The Advisory Committee appoints a three-member Inmate Disciplinary Appeal Board comprised of a retired county court judge, a person from the Office of Public Counsel, and a layperson without prior government service to affirm, remand, dismiss, expunge or modify any disciplinary action taken against an inmate. Any decision of the Appeal Board shall be in written form and given to the inmate involved and costs shall be paid from the Department's general fiscal budget.

The bill provides that any decision regarding classification, work release, educational release, community furlough, transfer to other facilities or release on parole shall be consistent with written departmental policy and clearly explained and provided to the inmate at least 30 days before such a decision is acted upon. Copies of these decisions shall be made available to the inmate's legal counsel, the Office of Public Counsel, or any member of the Legislature.

In addition, the bill provides promulgation under the Administrative Procedures Act of all written rules and regulations of the Department affecting the rights and privileges of inmates, including a procedure for public hearings to be conducted in the Department's various correctional facilities. The Department will be required to provide a detailed fiscal impact statement on each new regulation, and all new regulations will be submitted to the Office of Public Counsel for review. The Office of Public Counsel will then submit recommendations to the Legislative Committee having jurisdiction to implement and/or change rules and regulations that the Committee may adopt regarding the Department of Correctional Services. Inmates shall be informed of all rules, rights and policies and copies shall be provided to all inmates as well as posted at conspicuous places throughout the correctional facilities.

LB 297 prohibits the Department from imposing loss of good time or other discipline as a result of the filing of any legal action in court and provides that any sanction for filing a "frivolous" action shall be determined solely by the court in which the action is filed.

The bill also provides that loss of good time, change in work or education program, or deferral of parole eligibility for one year for violations of alcohol and drug policy shall constitute grounds for appeal.

Principal Introducer:

Senator Dwite A. Pedersen